

## REMARKS

This Amendment is in response to an Office Action mailed April 9, 2009. In the Office Action, claims 1-3, 18-20 and 22-36 were rejected under 35 U.S.C. §103. Claim 19 has been amended to remove an informality. Claims 37 and 38 have been added.

Reconsideration and allowance of the pending claims is respectfully requested.

### *Examiner's Interview*

The undersigned attorney conducted a telephonic interview with the Examiner on July 14, 2009 and July 31, 2009. During the telephone conferences, the undersigned attorney briefly highlighted how the cited references do not render the claimed invention unpatentable. The undersigned attorney understands that the Supervisory Examiner, Alford Kindred, agrees that the grounds for rejection are improper. Additional discussions have focused on the claimed invention, and in particular, the patentable subject matter of the invention. The undersigned attorney discussed that it is his understanding that conventional electronic product technology for an apparatus, such as a DVD player for example, is not implemented with a secondary processor (e.g., Stream Processor 115 of FIG. 2) as claimed. The second processor is architecturally positioned to receive and decode a second stream data, which includes video data and audio data, from a drive device (e.g., a hard disk drive, an optical disk drive, etc.). Unlike the first stream data, which is decoded by the first processor (e.g., CPU 111 of FIG. 2), the second stream data is not routed over the communication bus, and according to pending claim 22, this bus is defined as the PCI bus. This second stream data is decoded by the second processor to reproduce the second stream data in accordance with an instruction sent from the first processor over the communication bus. The undersigned attorney denoted the presence of additional claim elements, such as network control unit of claim 19, further establish the allowability of these claims. The Examiners are invited to contact the undersigned attorney if further discussions will facilitate the prosecution of the subject application.

### *Rejections Under 35 U.S.C. §103*

Claims 1-3, 18-20 and 22-36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Higashida (U.S. Patent No. 6,862,401) in view of Cloutier (U.S. Patent No. 5,847,771). Applicant respectfully traverses the rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. See MPEP §2143; see also *In Re Fine*, 873 F. 2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). In particular, the Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ (1966), stated: "Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined." MPEP §2141. In *KSR International Co. vs. Teleflex, Inc.*, 127 S.Ct. 1727 (2007) (Kennedy, J.), the Court explained that "[o]ften, it will be necessary for a court

to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, *all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.*" Emphasis added. The Court further required that an explicit analysis for this reason must be made. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR 127 S.Ct.* at 1741, quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

In the instant case, Applicant respectfully submits that the teachings of the combined references do not suggest all of the claim limitations and there are significant differences between the cited references and the claimed invention with no apparent reason to combine known elements in the manner as claimed. Thus, no *prima facie* case of obviousness has been established.

With respect to independent claims 1, 19 and 28, neither Higashida nor Cloutier, alone or in combination, describe or suggest the claimed invention. In particular, the Examiner interprets the first stream of data is considered to be the "file management information (13)" of Higashida. See page 3 of the Office Action. In addition, the Examiner Action interprets the "drive device" as the hard disk (8) of Higashida; the "second processor" as recording/reproducing control means (7) of Higashida; and the "second stream data" as the MPEG2 stream data from an IEEE 1394 interface (6) in Higashida.

Based to this interpretation, Applicant respectfully submits that a *prima facie* case of obviousness cannot be established because the file management information does not include any audio and video data as explicitly claimed. Rather, file management information (13) includes information called a file allocation table (FAT) and a directory. See col. 5, lines 5-7. The teachings of Cloutier of video and audio provide no basis for an alleged combination because such a combination would render the invention of Higashida inoperable.

Secondly, as stated above, the "second stream data" is considered to be the MPEG2 stream data from an IEEE 1394 interface (6) in Higashida. If so, the second stream data is not received from the drive device as claimed. Thus, a *prima facie* case of obviousness has not been established.

Hence, in light of the foregoing, Applicant respectfully requests that the Examiner withdraw the §103(a) rejection as applied to independent claims 1, 19 and 28.

Applicant respectfully submits that a *prima facie* case of obviousness has not been established because the combined teachings of the cited references fail to describe or suggest all of the claim limitations for dependent claims 2-3, 18, 20, 22-27 and 29-36. For instance:

- (1) Claim 22: the bus is not identified as a PCI bus.

(2) Claim 33: the first stream “file management information (13)” is in fact received from the hard drive (8). *See col. 5, lines 45-47 of Higashida.*

(3) Claims 35-36: the first stream is the “file management information (13),” and it is not an MPEG2 stream. Thus, it would not be encoded especially when this information involves addressing.

Moreover, based on the dependency of claims 2-3, 18, 20, 22-27 and 29-36 on independent claims 1, 19 and 28, which are believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted.

In summary, the claimed invention features a number of limitations that are considered to include patentable subject matter. These limitations are directed to the facts that (1) multiple processors are claimed for decoding stream data including video and audio data (e.g., MPEG2 stream); (2) these processors decode the stream data based on where the data are routed from (e.g., each processor decodes a particular stream data; and (3) the device is designed in a way that one of the stream data does not route over the main bus of the device (e.g. PCI bus). Withdrawal of the §103(a) rejection as applied to claims 1-3, 18-20 and 22-36 is respectfully requested.

***Conclusion***

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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By /Eric T. King/  
Eric T. King  
Reg. No. 44, 188  
Tel.: (714) 557-3800 (Pacific Coast)